

SUBCHAPTER E : CUSTOMER SERVICE AND PROTECTION

§291.80. Applicability.

Unless otherwise noted, this subchapter is applicable only to "water and sewer utilities" as defined under Subchapter A of this Chapter (relating to General Provisions) and includes affected counties.

Adopted December 6, 1995

Effective January 10, 1996

§291.81. Customer Relations.

(a) Information to customers.

(1) Upon receipt of a request for service or service transfer, the utility shall fully inform the service applicant or customer of the cost of initiating or transferring service. The utility shall clearly inform the service applicant which service initiation costs will be borne by the utility and which costs are to be paid by the service applicant. The utility shall inform the service applicant if any cost information is estimated. Also see §291.85 of this title (relating to Response to Requests for Service by a Retail Public Utility Within Its Certificated Area).

(2) Upon request, the utility shall provide the customer or service applicant with a free copy of the applicable rate schedule from its approved tariff. A complete copy of the utility's approved tariff shall be available at its local office for review by a customer or service applicant upon request.

(3) Each utility shall maintain a current set of maps showing the physical locations of its facilities. All facilities (production, transmission, distribution or collection lines, treatment plants, etc.) shall be labeled to indicate the size, design capacity, and any pertinent information which will accurately describe the utility's facilities. These maps, and such other maps as may be required by the commission, shall be kept by the utility in a central location and will be available for commission inspection during normal working hours.

(4) Each utility shall maintain a current copy of the commission's substantive rules, Chapter 291 of this title (relating to Water Rates) at each office location and make them available for customer inspection during normal working hours.

(5) Each water utility shall maintain a current copy of §§290.38 - 290.47 of this title (relating to Rules and Regulations for Public Water Systems), at each office location and make them available for customer inspection during normal working hours.

(b) Customer complaints. Customer complaints are also addressed in §291.82 of this title (relating to Resolution of Disputes).

(1) Upon receipt of a complaint from a customer or service applicant, either in person, by letter or by telephone, the utility shall promptly conduct an investigation and report its finding(s) to the complainant.

(2) In the event the complainant is dissatisfied with the utility's report, the utility must advise the complainant of their recourse through the Texas Natural Resource Conservation Commission complaint process, and that such process can be initiated by contacting the Consumer Assistance Coordinator, Water Utilities Division, Texas Natural Resource Conservation Commission, P.O. Box 13087, Austin, Texas 78711-3087. The commission encourages all complaints to be made in writing to assist the commission in maintaining records on the quality of service of each utility.

(3) Each utility shall make an initial response to the executive director within 15 days of receipt of a complaint from the commission on behalf of a customer or service applicant. The commission or the executive director may require a utility to provide a written response to the complainant, to the commission, or both. Pending resolution of a complaint, the commission or the executive director may require continuation or restoration of service.

(4) The utility shall keep a record of all complaints for a period of two years following the final settlement of each complaint. The record of complaint shall include the name and address of the complainant, the date the complaint was received by the utility, a description of the nature of the complaint, and the adjustment or disposition of the complaint.

(c) Telephone number. For each of the systems it operates, the utility must maintain and note on the customer's monthly bill either a local or toll free telephone number (or numbers) to which a customer can direct questions about their utility service.

(d) Local office. Unless authorized by the executive director pursuant to a written request, each utility shall have an office in the county or immediate area (within 20 miles) of a portion of its utility service area in which it keeps all books, records, tariffs, and memoranda required by the commission and at which it will accept customer payments or applications for service. Unless authorized by the executive director pursuant to a written request, each utility shall make available and notify customers of a location within 20 miles of each of its utility service facilities where payments can be made to restore service after disconnection for nonpayment, nonuse or other reasons specified in §291.88 of this title (relating to Discontinuance of Service).

Adopted August 21, 1996

Effective September 20, 1996

§291.82. Resolution of Disputes.

Any customer or service applicant requesting the opportunity to dispute any action or determination of a utility under the utility's customer service rules shall be given an opportunity for a review by the utility. If the utility is unable to provide a review immediately following the customer's request, arrangements for the review shall be made for the earliest possible date. Service shall not be disconnected pending completion of the review. The commission may require continuation or restoration of service pending resolution of a complaint. If the customer will not allow an inspection or chooses not to participate in such review or chooses not to make arrangements for such review to take

place within five working days after requesting it, the utility may disconnect service for the reasons listed in §291.88 of this title (relating to Discontinuance of Service), provided notice has been given in accordance with that subsection.

Adopted December 6, 1995

Effective January 10, 1996

§291.83. Refusal of Service.

(a) Grounds for refusal to serve. A utility may decline to serve a service applicant for the following reasons:

(1) the service applicant is not in compliance with state or municipal regulations applicable to the type of service requested;

(2) the service applicant is not in compliance with the rules and regulations of the utility governing the type of service requested which are in its approved tariff on file with the commission;

(3) the service applicant is indebted to any utility for the same type of service as that requested. However, in the event the indebtedness of the service applicant is in dispute, the service applicant shall be served upon complying with the deposit requirements in §291.84 of this title (relating to the Service Applicant and Customer Deposit);

(4) the service applicant's primary point of use is outside the certificated area;

(5) standby fees authorized under §291.87(o) of this title (relating to Billing) have not been paid for the specific property or lot on which service is being requested; or

(6) the utility is prohibited from providing service under Vernon's Texas Civil Statutes, Local Government Code, §212.012 or §232.029.

(b) Service Applicant's recourse. In the event the utility refuses to serve a service applicant under the provisions of these sections, the utility shall inform the service applicant in writing of the basis of its refusal and that the service applicant may file a complaint with the commission thereon.

(c) Insufficient grounds for refusal to serve. The following shall not constitute sufficient cause for refusal of service to a present customer or service applicant:

(1) delinquency in payment for service by a previous occupant of the premises to be served;

(2) violation of the utility's rules pertaining to operation of nonstandard equipment or unauthorized attachments which interferes with the service of others, unless the customer has first been notified and been afforded reasonable opportunity to comply with said rules;

(3) failure to pay a bill of another customer as guarantor thereof, unless the guarantee was made in writing to the utility as a condition precedent to service;

(4) failure to pay the bill of another customer at the same address except where a change of customer identity is made to avoid or evade payment of a utility bill;

(5) failure to pay for the restoration of a tap removed by the utility at its option or removed as the result of tampering or delinquency in payment by a previous customer; or

(6) failure to comply with regulations or rules for anything other than the type of utility service specifically requested including failure to comply with septic tank regulations or sewer hook-up requirements.

Adopted December 6, 1995

Effective January 10, 1996

§291.84. Service Applicant and Customer Deposit.

(a) Deposit on Tariff. Deposits may only be charged if listed on the utility's approved tariff.

(1) Residential service applicants. If a residential service applicant does not establish credit to the satisfaction of the utility, the residential service applicant may be required to pay a deposit that does not exceed \$50 for water service and \$50 for sewer service.

(2) Commercial and Nonresidential service applicants. If a commercial or nonresidential service applicant does not establish credit to the satisfaction of the utility, the service applicant may be required to make a deposit. The required deposit shall not exceed an amount equivalent to one-sixth of the estimated annual billings.

(3) Commercial and Nonresidential Customers. If actual monthly billings of a commercial or nonresidential customer are more than twice the amount of the estimated billings at the time service was established, a new deposit amount may be calculated and an additional deposit may be required to be made within 15 days after the issuance of written notice.

(b) Customers not disconnected. Current customers who have not been disconnected for nonpayment or other similar reasons in §291.88 of this title (relating to Discontinuance of Service) shall not be required to pay a deposit.

(c) Applicants 65 years of age or older. No deposit may be required of a residential service applicant who is 65 years of age or older if the applicant does not have a delinquent account balance with the utility or another water or sewer utility.

(d) Interest on deposits. Each utility shall pay a minimum interest on all customer deposits at an annual rate at least equal to a rate set each calendar year by the Public Utility Commission of Texas in accordance with the provisions of Texas Civil Statutes, Article 1440a. Payment of the interest to the customer shall be made annually if requested by the customer, or at the time the deposit is returned or

credited to the customer's account. Inquiries about the appropriate interest rate to be paid each year a deposit is held may be directed to the Water Utilities Division of the commission.

(e) Landlords/tenants. In cases of landlord/tenant relationships, the utility may require both parties to sign an agreement specifying which party is responsible for bills and deposits. This agreement may be included as a provision of the utility's approved service application form. The utility shall not require the landlord to guarantee the tenant's customer deposit or monthly service bill as a condition of service. The utility may require the landlord to guarantee the payment of service extension fees under the utility's approved tariff if these facilities will remain in public service after the tenant vacates the leased premises. If the landlord signs a guarantee of payment for deposits or monthly service bills, the guarantee shall remain in full force and effect until the guarantee is withdrawn in writing and copies are provided to both the utility and the tenant.

(f) Reestablishment of credit or deposit. Every service applicant who has previously been a customer of the utility and whose service has been discontinued for nonpayment of bills, meter tampering, bypassing of meter or failure to comply with applicable state and municipal regulations or regulations of the utility shall be required, before service is resumed, to pay all amounts due the utility or execute a deferred payment agreement, if offered, and may be required to pay a deposit if the utility does not currently have a deposit from the customer. The burden shall be on the utility to prove the amount of utility service received but not paid for and the reasonableness of any charges for such unpaid service, as well as all other elements of any bill required to be paid as a condition of service restoration.

(g) Records of deposits.

(1) The utility shall keep records to show:

- (A) the name and address of each depositor;
- (B) the amount and date of the deposit;
- (C) each transaction concerning the deposit; and
- (D) the amount of interest earned on customer deposit funds.

(2) The utility shall issue a receipt of deposit to each service applicant or customer from whom a deposit is received.

(3) A record of each unclaimed deposit shall be maintained for at least seven years, during which time the utility shall make a reasonable effort to return the deposit or may transfer the unclaimed deposit to the State Treasurer. If not already transferred, after seven years, unclaimed deposits shall be transferred to the State Treasurer.

(h) Refund of deposit.

(1) If service is not connected, or after disconnection of service, the utility shall promptly and automatically refund the service applicant's or customer's deposit plus accrued interest or the balance, if any, in excess of the unpaid bills for service furnished. The utility may refund deposits plus accumulated interest at any time prior to termination of utility service. The utility's policy for refunds to current customers must be consistent and nondiscriminatory.

(2) When a residential customer has paid bills for service for 18 consecutive billings without being delinquent, the utility shall promptly refund the deposit with interest to the customer either by payment or credit to the customer's bill. Deposits from customers who do not meet this criteria may be retained until service is terminated.

(i) Transfer of service. A transfer of service from one service location to another within the service area of the utility shall not be deemed a disconnection within the meaning of this section, and no additional deposit may be demanded unless permitted by this subchapter.

Adopted December 6, 1995

January 10, 1996

§291.85. Response to Requests for Service by a Retail Public Utility Within Its Certificated Area.

(a) Except as provided for in subsection (e) of this section, every retail public utility shall serve each qualified service applicant within its certificated area as soon as is practical after receiving a completed application. A qualified service applicant is an applicant who has met all of the retail public utility's requirements contained in its tariff, schedule of rates, or service policies and regulations for extension of service including the delivery to the retail public utility of any service connection inspection certificates required by law.

(1) Where a new service tap is required, the retail public utility may require that the property owner make the request for the tap to be installed.

(2) Upon request for service by a service applicant, the retail public utility shall make available and accept a completed written application for service.

(3) Except for good cause, at a location where service has previously been provided the utility must reconnect service within one working day after the applicant has submitted a completed application for service and met any other requirements in the utility's approved tariff.

(4) A request for service that requires a tap but does not require line extensions, construction, or new facilities shall be filled within 5 working days after a completed service application has been accepted.

(5) If construction is required to fill the order and if it cannot be completed within 30 days, the retail public utility shall provide a written explanation of the construction required and an expected date of service.

(b) Except for good cause shown, the failure to provide service within 30 days of an expected date or within 180 days of the date a completed application was accepted from a qualified applicant

may constitute refusal to serve, and may result in the assessment of administrative penalties or revocation of the certificate of convenience and necessity or the granting of a certificate to another retail public utility to serve the applicant.

(c) The cost of extension and any construction cost options such as rebates to the customer, sharing of construction costs between the utility and the customer, or sharing of costs between the customer and other applicants shall be provided to the customer in writing upon assessment of the costs of necessary line work, but before construction begins. Also see §291.81(a)(1) of this title (relating to Customer Relations).

(d) Where recorded public utility easements on the service applicant's property do not exist or public road right-of-way easements are not available to access the property of a service applicant, the retail public utility may require the service applicant or land owner to grant a permanent recorded public utility easement dedicated to the retail public utility which will provide a reasonable right of access and use to allow the retail public utility to construct, install, maintain, inspect and test water and/or sewer facilities necessary to serve that applicant. As a condition of service to a new subdivision, retail public utilities may require developers to provide permanent recorded public utility easements to and throughout the subdivision sufficient to construct, install, maintain, inspect, and test water and/or sewer facilities necessary to serve the subdivision's anticipated service demands upon full occupancy.

(e) Service Extensions by a Water Supply or Sewer Service Corporation or Special Utility District.

(1) A water supply or sewer service corporation or a special utility district organized under Chapter 65 of the code is not required to extend retail water or sewer utility service to a service applicant in a subdivision within its certificated area if it documents that:

(A) the developer of the subdivision has failed to comply with the subdivision service extension policy as set forth in the tariff of the corporation or the policies of the special utility district; and

(B) the service applicant purchased the property after the corporation or special utility district gave notice of its rules which are applicable to service to subdivisions in accordance with the notice requirements in this subsection.

(2) Publication of notice, in substantial compliance with the form notice in Appendix A, in a newspaper of general circulation in each county in which the corporation or special utility district is certificated for utility service of the requirement to comply with the subdivision service extension policy constitutes notice under this subsection. The notice must be published once a week for two consecutive weeks on a biennial basis and must contain information describing the subdivision service extension policy of the corporation or special utility district. The corporation or special utility district must be able to provide proof of publication through an affidavit of the publisher of the newspaper that specifies each county in which the newspaper is generally circulated.

Appendix A

NOTICE OF REQUIREMENT TO COMPLY WITH THE
SUBDIVISION SERVICE EXTENSION POLICY OF
(name of water supply corporation/special utility district)

Pursuant to Chapter 13.2502 of the Texas Water Code, _____ Water Supply Corporation/Special Utility District hereby gives notice that any person who subdivides land by dividing any lot, tract, or parcel of land, within the service area of _____ Water Supply Corporation/Special Utility District, Certificate of Convenience and Necessity No.

_____, in _____ County, into two or more lots or sites for the purpose of sale or development, whether immediate or future, including re-subdivision of land for which a plat has been filed and recorded or requests more than two water or sewer service connections on a single contiguous tract of land must comply with [title of subdivision service extension policy stated in the tariff/policy] (the "Subdivision Policy") contained in _____ Water Supply Corporation's tariff/Special Utility District's policy.

_____ Water Supply Corporation/Special Utility District is not required to extend retail water or sewer utility service to a service applicant in a subdivision where the developer of the subdivision has failed to comply with the Subdivision Policy.

Applicable elements of the Subdivision Policy include:

Evaluation by _____ Water Supply Corporation/Special Utility District of the impact a proposed subdivision service extension will make on _____ Water Supply Corporation's/ Special Utility District's water supply/sewer service system and payment of the costs for this evaluation;

Payment of reasonable costs or fees by the developer for providing water supply/sewer service capacity;

Payment of fees for reserving water supply/sewer service capacity;

Forfeiture of reserved water supply/sewer service capacity for failure to pay applicable fees;

Payment of costs of any improvements to _____ Water Supply Corporation's/Special Utility District's system that are necessary to provide the water/sewer service;

Construction according to design approved by _____ Water Supply Corporation/Special Utility District and dedication by the developer of water/sewer facilities within the subdivision following inspection.

_____ Water Supply Corporation's/Special Utility District's tariff and a map showing _____ Water Supply Corporation's/Special Utility District's service area may be reviewed at _____ Water Supply Corporation's/ Special Utility District's offices, at [address of the water supply corporation/special utility district]; the tariff/policy and service area map

also are filed of record at the Texas Natural Resource Conservation Commission in Austin, Texas and may be reviewed by contacting the TNRCC, c/o Utility Rates and Services Section, Water Utilities Division, P. O. Box 13087, Austin, Texas 78711.

(3) As an alternative to publication of notice, a corporation or special utility district may demonstrate by any reasonable means that a developer has been notified of the requirement to comply with the subdivision service extension policy, including:

(A) an agreement executed by the developer;

(B) correspondence with the developer that sets forth the subdivision service extension policy; or

(C) any other documentation that reasonably establishes that the developer should be aware of the subdivision service extension policy.

(4) For purposes of this subsection:

(A) "Developer" means a person who subdivides land or requests more than two water or sewer service connections on a single contiguous tract of land.

(B) "Service applicant" means a person, other than a developer, who applies for retail water or sewer utility service.

Adopted December 6, 1995

Effective January 10, 1996

§291.86. Service Connections.

(a) Water Service Connections.

(1) Tap Fees. The fees for initiation of service, where no service previously existed, shall be in accordance with the following:

(A) The fee charged by a utility for connecting a residential service applicant's premises to the system shall be as stated on the approved tariff. In determining the reasonableness of a tap fee, the commission will consider the actual costs of materials, labor, and administrative costs for such service connections and road construction or impact fees charged by authorities with control of road use if typically incurred and may allow a reasonable estimate of tax liabilities. The commission may limit the tap fee to an amount equal to the average costs incurred by the utility.

(B) Whether listed on the utility's approved tariff or not, the tap fee charged for all service connections requiring meters larger than 3/4 inch shall be limited to the actual cost of materials, labor and administrative costs for making the individual service connection and road construction or impact fees charged by authorities with control of road use and a reasonable estimate of tax liabilities. The service applicant shall be given an itemized statement of the costs.

(C) An additional fee may be charged to a residential service applicant, if stated on the approved tariff, for a tap expense not normally incurred; for example, a road bore for customers outside of subdivisions or residential areas.

(2) Installation and Service Connection.

(A) The utility shall furnish and install, for the purpose of connecting its distribution system to the service applicant's property, the service pipe from its main to the meter location on the service applicant's property. See also §291.86(a)(3) of this title (relating to Service Connections). For all new installations, a utility-owned cut-off valve shall be provided on the utility side of the meter. Utilities without customer meters shall provide and maintain a cut-off valve on the customer's property as near the property line as possible. This does not relieve the utility of the obligation to comply with §291.89 of this title (relating to Meters).

(B) The service applicant shall be responsible for furnishing and laying the necessary service line from the meter to the place of consumption and shall keep the service line in good repair. For new taps, service applicants may be required to install a customer owned cut-off valve on the customer's side of the meter or connection. Customers who have damaged the utility's cut-off valve or curb stop through unauthorized use or tampering may be required to install a customer owned cut-off valve on the customer's side of the meter or connection within a reasonable time frame of not less than 30 days if currently connected or prior to restoration of service if the customer has been lawfully disconnected under these rules. The customer's responsibility shall begin at the discharge side of the meter or utility's cut-off valve if there are no meters. If the utility's meter or cut-off valve is not on the customer's property, the customer's responsibility will begin at the property line.

(3) Location of meters. Meters shall be located on the customer's property, readily accessible for maintenance and reading and, so far as practicable, the meter shall be at a location mutually acceptable to the customer and the utility. The meter shall be installed so as to be unaffected by climatic conditions and reasonably secure from damage.

(4) Relocation and conversion of meters. If an existing meter is moved to a location designated by the customer for the customer's convenience, the utility may not be responsible except for negligence. The customer may be charged the actual cost of relocating the meter. If the customer requests that an existing meter be replaced with a meter of another size or capacity, the customer may be charged the actual cost of converting the meter including enlarging the line from the main to the meter if necessary.

(b) Sewer Service Connections.

(1) Tap Fees. The fees for initiation of sewer service, where no service previously existed, shall be in accordance with the following:

(A) The fee charged by a utility for connecting a residential service applicant's premises to the sewer system shall be as stated on the approved tariff. In determining the reasonableness of a tap fee, the commission will consider the actual costs of materials, labor, and administrative costs for such service connections and road construction or impact fees charged by

authorities with control of road use if typically incurred and may allow a reasonable estimate of tax liabilities. The commission may limit the tap fee to an amount equal to the average costs incurred by the utility.

(B) The fee charged for all commercial or nonstandard service connections shall be set at the actual cost of materials, labor and administrative costs for making the service connection and road construction or impact fees charged by authorities with control of road use and may include a reasonable estimate of tax liabilities. The service applicant shall be given an itemized statement of the costs.

(C) A fee in addition to the standard tap fee may be charged for a new residential service connection which requires expenses not normally incurred if clearly identified on the approved tariff; for example, a road bore for service applicants outside of subdivisions or residential areas.

(D) Tap fees for sewer systems designed to receive effluent from a receiving tank located on the customer's property, whether fed by gravity or pressure into the utility's sewer main, may include charges to install a receiving tank and appurtenances on the customer's property and service line from the tank to the utility's main which meets the minimum standards set by the utility and authorized by the commission. The tank may include grinder pumps, etc. to pump the effluent into the utility's main. Ownership of and maintenance responsibilities for the receiving tank and appurtenances shall be specified in the utility's approved tariff.

(2) Installation and Service Connections.

(A) The utility shall furnish and install, for the purpose of connecting its collection system to the service applicant's service line, the service pipe from its main to a point on the customer's property.

(B) The customer shall be responsible for furnishing and laying the necessary customer service line from the utility's line to the residence.

(3) Maintenance By Customer.

(A) The customer service line and appurtenances installed by the customer shall be constructed in accordance with the laws and regulations of the State of Texas governing plumbing practices which must be at least as stringent and comprehensive as one of the following nationally recognized codes: the Southern Standard Plumbing Code, the Uniform Plumbing Code, and/or the National Standard Plumbing Code, or other standards as prescribed by the commission.

(B) It shall be the customer's responsibility to maintain the customer service line and any appurtenances which are the customer's responsibility in good operating condition, such as, clear of obstruction, defects, leaks or blockage. If the utility can provide evidence of excessive infiltration or inflow into the customer's service line or failure to provide proper pretreatment, the utility may, with the written approval of the executive director, require that the customer repair the line or eliminate the infiltration or inflow or take such actions necessary to correct the problem. If the

customer fails to correct the problem within a reasonable time, the utility may disconnect the service after notice as required under §291.88 of this title (relating to Discontinuance of Service). Less than 10 days notice may be given if authorized by the executive director.

(C) If the customer retains ownership of receiving tanks and appurtenances located on the customer's property under the utility's tariff, routine maintenance and repairs are the customer's responsibility. The utility may require in its approved tariff that parts and equipment meet the minimum standards set by the utility to ensure proper and efficient operation of the sewer system but cannot require that the customer purchase parts or repair service from the utility.

(c) Line extension and construction charges. Each utility shall file its extension policy with the commission as part of its tariff. The policy shall be consistent and nondiscriminatory. No contribution in aid of construction may be required of any service applicant except as provided for in the approved extension policy.

(1) Contributions in aid of construction shall not be required of individual residential service applicants for production, storage, treatment, or transmission facilities unless that residential customer places unique, non-standard service demands upon the system, in which case, the customer may be charged the additional cost of extending service to and throughout his property, including the cost of all necessary collection or transmission facilities necessary to meet the service demands anticipated to be created by that property.

(2) Developers may be required to provide contributions in aid of construction in amounts sufficient to reimburse the utility for:

(A) existing uncommitted facilities at their original cost if the utility has not previously been reimbursed. A utility shall not be reimbursed for facilities in excess of the amount the utility paid for the facilities. A utility is not required to allocate existing uncommitted facilities to a developer for projected development beyond a reasonable planning period; or

(B) additional facilities compliant with the commission's minimum design criteria for facilities used in the production, transmission, pumping, or treatment of water or the commission's minimum design criteria for wastewater collection and treatment facilities and to provide for reasonable local demand requirements. Income tax liabilities which may be incurred due to collection of contributions in aid of construction may be included in extension charges to developers. Additional tax liabilities due to collection of the original tax liability may not be collected unless they can be supported and are specifically noted in the approved extension policy.

(3) For purposes of this subsection, a developer is one who subdivides or requests more than two water service connections or sewer service connections on a single contiguous tract of land.

(d) Cost utilities and service applicants shall bear.

(1) Within its certificated area, a utility shall be required to bear the cost of the first 200 feet of any water main or sewer collection line necessary to extend service to an individual residential service applicant within a platted subdivision unless the utility can document:

(A) that the developer of the subdivision refused to provide facilities compatible with the utility's facilities in accordance with the utility's approved extension policy after receiving a written request from the utility; or,

(B) that the developer of the subdivision defaulted on the terms and conditions of a written agreement or contract existing between the utility and the developer regarding payment for services, extensions, or other requirements; or in the event the developer declared bankruptcy and was therefore unable to meet obligations; and,

(C) that the residential service applicant purchased the property from the developer after the developer was notified of the need to provide facilities to the utility.

(2) A residential service applicant may be charged the remaining costs of extending service to his property; provided, however, that the residential service applicant may only be required to pay the cost equivalent to the cost of extending the nearest water main or wastewater collection line, whether or not that line has adequate capacity to serve that residential service applicant. The following criteria shall be considered to determine the residential service applicant's cost for extending service:

(A) the residential service applicant shall not be required to pay for costs of main extensions greater than 2" in diameter for water distribution and pressure wastewater collection lines and 6" in diameter for gravity wastewater lines.

(B) Exceptions may be granted by the executive director if:

(i) adequate service cannot be provided to the applicant using the maximum line sizes listed due to distance or elevation, in which case, it shall be the utility's burden to justify that a larger diameter pipe is required for adequate service;

(ii) larger minimum line sizes are required under subdivision platting requirements or building codes of municipalities within whose corporate limits or extraterritorial jurisdiction the point of use is located; or

(iii) the residential service applicant is located outside the CCN service area.

(C) If an exception is granted, the utility must establish a proportional cost plan for the specific extension or a rebate plan which may be limited to seven years to return the portion of the applicant's costs for oversizing as new customers are added to ensure that future applicants for service on the line pay at least as much as the initial service applicant.

(3) The utility shall bear the cost of any oversizing of water distribution lines or wastewater collection lines necessary to serve other potential service applicants or customers in the immediate area or for fire flow requirements unless an exception is granted under paragraph (2), subparagraph (B) of this subsection.

(4) For purposes of determining the costs that service applicants shall pay, commercial customers with service demands greater than residential customer demands in the certificated area, industrial, and wholesale customers may be treated as developers. A service applicant requesting a one inch meter for a lawn sprinkler system to service a residential lot is not considered nonstandard service.

(e) Other Fees for Service Applicants. Except for an affected county, utilities shall not charge membership fees or application fees.

Adopted December 6, 1995

Effective January 10, 1996

§291.87. Billing.

(a) Authorized rates. Bills shall be calculated according to the rates approved by an affected county or the commission and listed on the utility's approved tariff. Unless specifically authorized by the commission, a utility may not apply a metered rate to customers in a subdivision or geographically defined area unless all customers in the subdivision or geographically defined area are metered.

(b) Due date. The due date of the bill for utility service shall not be less than 16 days after issuance unless the customer is a State Agency. If the customer is a State Agency, the due date for the bill shall be not less than 30 days after issuance unless otherwise agreed to by the State Agency. The postmark on the bill or the recorded date of mailing by the utility if there is no postmark on the bill, shall constitute proof of the date of issuance. Payment for utility service is delinquent if the full payment, including late fees and regulatory assessments, is not received at the utility or at the utility's authorized payment agency by 5:00 p.m. on the due date. If the due date falls on a holiday or weekend, the due date for payment purposes shall be the next work day after the due date.

(c) Penalty on delinquent bills for retail service. Unless otherwise provided, a one-time penalty of either \$2.00 or 5.0 percent may be made on delinquent bills. If, after receiving a bill including a late fee, a customer pays the bill in full except for the late fee, the bill may be considered delinquent and subject to termination after proper notice under §291.88 of this title (relating to Discontinuance of Service). An additional late fee may not be applied to a subsequent bill for failure to pay the prior late fee. The penalty on delinquent bills may not be applied to any balance to which the penalty was applied in a previous billing. No such penalty may be charged unless a record of the date the utility mails the bills is made at the time of the mailing and maintained at the principal office of the utility. Late fees may not be charged on any payment received by 5:00 p.m. on the due date at the utility's office or authorized payment agency. The commission may prohibit a utility from collecting late fees for a specified period if it determines that the utility has charged late fees on payments which were not delinquent.

(d) Deferred payment plan. A deferred payment plan is any arrangement or agreement between the utility and a customer in which an outstanding bill will be paid in installments. The utility shall offer a deferred payment plan to any residential customer if the customer's bill is more than three times the average monthly bill for that customer for the previous 12 months and if that customer has not been issued more than two disconnection notices at any time during the preceding 12 months. In all other cases, the utility is encouraged to offer a deferred payment plan to residential customers who cannot pay an outstanding bill in full but are willing to pay the balance in reasonable installments. A

deferred payment plan may include a finance charge which shall not exceed an annual rate of 10 percent simple interest. Any finance charges must be clearly stated on the deferred payment agreement.

(e) Rendering and form of bills.

(1) Bills for water and sewer service shall be rendered monthly unless otherwise authorized by the commission, or unless service is terminated before the end of a billing cycle. Service initiated less than one week before the next billing cycle begins may be billed with the following month's bill. Bills shall be rendered as promptly as possible following the reading of meters. One bill shall be rendered for each meter.

(2) The customer's bill shall show all the following information, if applicable, and shall be arranged so as to allow the customer to readily compute the bill with a copy of the applicable rate schedule:

(A) if the meter is read by the utility, the date and reading of the meter at the beginning and at the end of the period for which the bill is rendered;

(B) the number and kind of units metered;

(C) the applicable rate class or code;

(D) the total amount due for water service;

(E) the amount deducted as a credit required by a commission order;

(F) the amount due as a surcharge;

(G) the total amount due on or before the due date of the bill;

(H) the due date of the bill;

(I) the date by which customers must pay the bill in order to avoid addition of a penalty;

(J) the total amount due as penalty for nonpayment within a designated period;

(K) a distinct marking to identify an estimated bill;

(L) any conversions from meter reading units to billing units, or any other calculations to determine billing units from recording or other devices, or any other factors used in determining the bill;

(M) the total amount due for sewer service;

(N) the gallonage used in determining sewer usage;

(O) the local telephone number or toll free number where the utility can be reached.

(3) Except for an affected county, charges for nonutility services or any other fee or charge not specifically authorized by the code or these rules or specifically listed on the utility's approved tariff may not be included on the bill.

(f) Charges for sewer service. Utilities are not required to use meters to measure the quantity of sewage disposed of by individual customers. When a sewer utility is operated in conjunction with a water utility which serves the same customer, the charge for sewage disposal service may be based on the consumption of water as registered on the customer's water meter. Where measurement of water consumption is not available, the utility shall use the best means available for determining the quantity of sewage disposal service used. A method of separating customers by class shall be adopted so as to apply rates which will accurately reflect the cost of service to each class of customer.

(g) Overbilling and underbilling. If billings for utility service are found to differ from the utility's lawful rates for the services being provided to the customer, or if the utility fails to bill the customer for such services, a billing adjustment shall be calculated by the utility. If the customer is due a refund, an adjustment shall be made for the entire period of the overcharges. If the customer was undercharged, the utility may backbill the customer for the amount which was underbilled. The backbilling shall not exceed six months unless such undercharge is a result of meter tampering, bypass, or diversion by the customer as defined in §291.89 of this title (relating to Meters). If the underbilling is \$25 or more, the utility shall offer to such customer a deferred payment plan option for the same length of time as that of the underbilling. In cases of meter tampering, bypass, or diversion, a utility may, but is not required to, offer a customer a deferred payment plan.

(h) Estimated bills. When there is good reason for doing so, a water or sewer utility may issue estimated bills, provided that an actual meter reading is taken every two months and appropriate adjustments made to the bills.

(i) Prorated charges for partial-month bills. When a bill is issued for a period of less than one month, charges should be computed as follows:

(1) Metered service. Service shall be billed for the base rate, as shown in the utility's tariff, prorated for the number of days service was provided; plus the volume metered in excess of the prorated volume allowed in the base rate.

(2) Flat-rate service. The charge shall be prorated on the basis of the proportionate part of the period during which service was rendered.

(3) Surcharges. Surcharges approved by the commission do not have to be prorated on the basis of the number of days service was provided.

(j) Prorated charges due to utility service outages. In the event that utility service is interrupted for more than 24 consecutive hours, the utility shall prorate the base charge to the customer to reflect this loss of service. The base charge to the customer shall be prorated on the basis of the proportionate part of the period during which service was interrupted.

(k) Disputed bills.

(1) A customer may advise a utility that a bill is in dispute by written notice or in person during normal business hours. A dispute must be registered with the utility prior to the date of proposed discontinuance for a customer to avoid discontinuance of service as provided by these sections.

(2) Notwithstanding any other section of this chapter, the customer shall not be required to pay the disputed portion of a bill which exceeds the amount of that customer's average monthly usage at current rates pending the completion of the determination of the dispute. For purposes of this section only, the customer's average monthly usage shall be the average of the customer's usage for the preceding 12-month period. Where no previous usage history exists, consumption for calculating the average monthly usage shall be estimated on the basis of usage levels of similar customers under similar conditions.

(3) Notwithstanding any other section of this chapter, a utility customer's service shall not be subject to discontinuance for nonpayment of that portion of a bill under dispute pending the completion of the determination of the dispute. The customer is obligated to pay any billings not disputed as established in §291.88 of this title (relating to Discontinuance of Service).

(l) Notification of alternative payment programs or payment assistance. Any time a customer contacts a utility to discuss their inability to pay a bill or indicate that they are in need of assistance with their bill payment, the utility or utility representative shall provide information to the customer in English and in Spanish if requested of available alternative payment and payment assistance programs available from the utility and of the eligibility requirements and procedure for applying for each.

(m) Adjusted bills. There shall be a presumption of reasonableness of billing methodology by a sewer utility for winter average billing or by a water utility with regard to a case of meter tampering, bypassing, or other service diversion if any one of the following methods of calculating an adjusted bill is used:

(1) estimated bills based upon service consumed by that customer at that location under similar conditions during periods preceding the initiation of meter tampering or service diversion. Such estimated bills shall be based on at least 12 consecutive months of comparable usage history of that customer, when available, or lesser history if the customer has not been served at that site for 12 months. This subsection, however, does not prohibit utilities from using other methods of calculating bills for unmetered water when the usage of other methods can be shown to be more appropriate in the case in question;

(2) estimated bills based upon that customer's usage at that location after the service diversion has been corrected;

(3) calculation of bills for unmetered consumption over the entire period of meter bypassing or other service diversion, if the amount of actual unmetered consumption can be calculated by industry recognized testing procedures; or

(4) a reasonable adjustment is made to the sewer bill if a water leak can be documented during the winter averaging period and winter average water use is the basis for calculating a customer's sewer charges. If the actual water loss can be calculated, the consumption shall be adjusted accordingly. If not, the prior year average can be used if available. If the actual water loss cannot be calculated and the customer's prior year's average is not available, then a typical average for other customers on the system with similar consumption patterns may be used.

(n) Equipment damage charges. A utility may charge for all labor, material, equipment, and all other actual costs necessary to repair or replace all equipment damaged due to negligence, meter tampering or bypassing, service diversion, or the discharge of wastes which the system cannot properly treat. The utility may charge for all actual costs necessary to correct service diversion or unauthorized taps where there is no equipment damage, including incidents where service is reconnected without authority. An itemized bill of such charges must be provided to the customer. A utility may not charge any additional penalty or any other charge other than actual costs unless such penalty has been expressly approved by the commission and filed in the utility's tariff. Except in cases of meter tampering or service diversion, a utility may not disconnect service of a customer refusing to pay damage charges unless authorized to in writing by the executive director.

(o) Fees. Except for an affected county, utilities may not charge disconnect fees, service call fees, field collection fees, or standby fees except as authorized in this chapter.

(1) A utility may only charge a developer standby fees for unrecovered costs of facilities committed to a developer's property under the following circumstances:

(A) under a contract and only in accordance with the terms of the contract; or,

(B) if service is not being provided to a lot or lots within two years after installation of facilities necessary to provide service to the lots has been completed and if the standby fees are included on the utility's approved tariff after a rate change application has been properly filed. The fees cannot be billed to the developer or collected until the standby fees have been approved by the commission or executive director.

(C) for purposes of this subsection, a manufactured housing rental community can only be charged standby fees under a contract or if the utility installs the facilities necessary to provide individually metered service to each of the rental lots or spaces in the community.

(2) Except as provided in §291.88(h)(2) of this title (relating to Discontinuance of Service) and §291.89(c) (relating to Meters) other fees listed on a utility's approved tariff may be charged when appropriate. Return check charges included on a utility's approved tariff may not exceed the utility's documentable cost.

(p) Payment with cash. When a customer pays any portion of a bill with cash, the utility must issue a written receipt for the payment.

Adopted December 6, 1995

Effective January 10, 1996

§291.88. Discontinuance of Service.

(a) Disconnection with notice.

(1) Notice requirements. Proper notice shall consist of a separate written statement which a utility must mail or hand deliver to a customer before service may be disconnected. The notice must be provided in English and Spanish if necessary to adequately inform the customer and must include the following information:

(A) The words "termination notice" or similar language approved by the executive director written in a way to stand out from other information on the notice;

(B) The action required to avoid disconnection, such as paying past due service charges;

(C) The date by which the required action must be completed to avoid disconnection. This date must be at least 10 days from the date the notice is provided unless a shorter time is authorized by the executive director;

(D) The intended date of disconnection;

(E) The office hours, telephone number, and address of the utility's local office;

(F) The total past due charges;

(G) All reconnect fees that will be required to restore water or sewer service if service is disconnected.

(H) If notice is provided by a sewer service provider under subsection (e) of this section, the notice must also state:

(i) that failure to pay past due sewer charges will result in termination of water service; and

(ii) that water service will not be reconnected until all past due and currently due sewer service charges and the sewer reconnect fee are paid.

(2) Reasons for disconnection. Utility service may be disconnected after proper notice for any of the following reasons:

(A) failure to pay a delinquent account for utility service or failure to comply with the terms of a deferred payment agreement.

(i) Payment by check which has been rejected for insufficient funds, closed account, or for which a stop payment order has been issued is not deemed to be payment to the utility.

(ii) Payment at a utility's office or authorized payment agency is considered payment to the utility.

(iii) The utility is not obligated to accept payment of the bill when an employee is at the customer's location to disconnect service;

(B) violation of the utility's rules pertaining to the use of service in a manner which interferes with the service of others;

(C) operation of non-standard equipment, if a reasonable attempt has been made to notify the customer and the customer is provided with a reasonable opportunity to remedy the situation;

(D) failure to comply with deposit or guarantee arrangements where required by §291.84 of this title (relating to Service Applicant and Customer Deposit); and

(E) failure to pay charges for sewer service provided by another retail public utility in accordance with subsection (e) of this section.

(b) Disconnection without notice. Utility service may be disconnected without prior notice for the following reasons:

(1) where a known and dangerous condition related to the type of service provided exists. Where reasonable, given the nature of the reason for disconnection, a written notice of the disconnection, explaining the reason service was disconnected, shall be posted at the entrance to the property, the place of common entry or upon the front door of each affected residential unit as soon as possible after service has been disconnected;

(2) where service is connected without authority by a person who has not made application for service;

(3) where service has been reconnected without authority following termination of service for nonpayment under subsection (a) of this section;

(4) or in instances of tampering with the utility's meter or equipment, bypassing the same, or other instances of diversion as defined in §291.89 of this title (relating to Meters).

(c) Disconnection prohibited. Utility service may not be disconnected for any of the following reasons:

- (1) failure to pay for utility service provided to a previous occupant of the premises;
- (2) failure to pay for merchandise, or charges for non-utility service provided by the utility;
- (3) failure to pay for a different type or class of utility service unless the fee for such service is included on the same bill or unless such disconnection is in accordance with subsection (e) of this section;
- (4) failure to pay the account of another customer as guarantor thereof, unless the utility has in writing the guarantee as a condition precedent to service;
- (5) failure to pay charges arising from an underbilling due to any faulty metering, unless the meter has been tampered with or unless such underbilling charges are due under §291.89 of this title (relating to Meters);
- (6) failure to pay an estimated bill other than a bill rendered pursuant to an approved meter-reading plan, unless the utility is unable to read the meter due to circumstances beyond its control;
- (7) failure to comply with regulations or rules regarding anything other than the type of service being provided including failure to comply with septic tank regulations or sewer hook-up requirements;
- (8) refusal of a current customer to sign a service agreement; or,
- (9) failure to pay standby fees.

(d) Disconnection due to utility abandonment. No public utility may abandon a customer or a certificated service area unless it has complied with the requirements of §291.114 of this title (relating to Requirement to Provide Continuous and Adequate Service) and obtained approval from the commission.

(e) Disconnection of water service due to nonpayment of sewer charges.

(1) Where sewer service is provided by one retail public utility and water service is provided by another retail public utility, the retail public utility that provides the water service shall disconnect water service to a customer who has not paid undisputed sewer charges if requested by the sewer service provider and if an agreement exists between the two retail public utilities regarding such disconnection or if an order has been issued by the commission specifying a process for such disconnections.

(A) Before water service may be terminated, proper notice of such termination must be given to the customer and the water service provider by the sewer service provider. Such notice must be in conformity with subsection (a) of this section.

(B) Water and sewer service shall be reconnected in accordance with subsection (h) of this section. The water service provider may not charge the customer a reconnect fee prior to reconnection unless it is for nonpayment of water service charges in accordance with its approved tariff. The water service provider may require the customer to pay any water service charges which have been billed but remain unpaid prior to reconnection. The water utility may require the sewer utility to reimburse it for the cost of disconnecting the water service in an amount not to exceed \$50. The sewer utility may charge the customer its approved reconnect fee for nonpayment in addition to any past due charges.

(C) If the retail public utilities providing water and sewer service cannot reach an agreement regarding disconnection of water service for nonpayment of sewer charges, the commission may issue an order requiring disconnections under specified conditions.

(D) The commission will issue an order requiring termination of service by the retail public utility providing water service if either:

(i) the retail public utility providing sewer service has obtained funding through the State or Federal government for the provision, expansion or upgrading of such sewer service; or,

(ii) the commission finds that an order is necessary to effectuate the purposes of the Texas Water Code.

(2) A utility providing water service to customers who are provided sewer service by another retail public utility may enter into an agreement to provide billing services for the sewer service provider. In this instance, the customer may only be charged the tariffed reconnect fee for nonpayment of a bill on the water service provider's tariff.

(f) Disconnection for ill customers. No utility may discontinue service to a delinquent residential customer when that customer establishes that some person residing at that residence will become seriously ill or more seriously ill if service is discontinued. To avoid disconnection under these circumstances, the customer must provide a written statement from a physician to the utility prior to the stated date of disconnection. Service may be disconnected in accordance with subsection (a) of this section if the next month's bill and the past due bill are not paid by the due date of the next month's bill, unless the customer enters into a deferred payment plan with the utility.

(g) Disconnection upon customer request. A utility shall disconnect service within 24 hours after receiving a written request from the customer.

(h) Service restoration.

(1) Utility personnel must be available during normal business hours to accept payment on the day service is disconnected and the day after service is disconnected, unless the disconnection is at the customer's request or due to the existence of a dangerous condition related to the type of service provided. Once the past due service charges and applicable reconnect fees are paid or other

circumstances which resulted in disconnection are corrected, the utility must restore service within 24 hours.

(2) Reconnect Fees.

(A) A reconnect fee, or seasonal reconnect fee as appropriate, may be charged for restoring service if listed on the utility's approved tariff.

(B) A reconnect fee may not be charged where service was not disconnected, except in circumstances where a utility representative arrives at a customer's service location with the intent to disconnect service because of a delinquent bill, and the customer prevents the utility from disconnecting the service.

(C) Except as provided under §291.89(c) of this title (relating to Meters) when a customer prevents disconnection at the water meter or connecting point between the utility and customer sewer lines, a reconnect fee charged for restoring water or sewer service after disconnection for nonpayment of monthly charges shall not exceed \$25 provided the customer pays the delinquent charges and requests to have service restored within 45 days. If a request to have service reconnected is not made within 45 days of the date of disconnection, the utility may charge its approved reconnect fee or seasonal reconnect fee.

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Effective January 10, 1996

§291.89. Meters.

(a) Meter requirements.

(1) Use of meter. All charges for water service shall be based on meter measurements, except where otherwise authorized in the utility's approved tariff.

(2) Installation by utility. Unless otherwise authorized by the commission, each utility shall provide, install, own and maintain all meters necessary for the measurement of water provided to its customers.

(3) Standard type. No utility shall furnish, set up, or put in use any meter which is not reliable and of a standard type which meets industry standards; provided, however, special meters not necessarily conforming to such standard types may be used for investigation or experimental purposes.

(4) One meter is required for each residential, commercial, or industrial service connection. An apartment building or mobile home park may be considered by the utility to be a single commercial facility for the purpose of these sections. The executive director may grant an exception to the individual meter requirement if the plumbing of an existing multiple use or multiple occupant building would prohibit the installation of individual meters at a reasonable cost or would result in unreasonable disruption of the customary use of the property.

(b) Meter readings.

(1) Meter unit indication. In general, each meter shall indicate clearly the gallons of water or other units of service for which charge is made to the customer.

(2) Reading of meters.

(A) Service meters shall be read at monthly intervals, and as nearly as possible on the corresponding day of each month, but may be read at other than monthly intervals if authorized in the utility's approved tariff.

(B) The utility shall charge for volume usage at the lowest block charge on its approved tariff when the meter reading date varies by more than two days from the normal meter reading date.

(c) Access to meters and utility cutoff valves.

(1) At the customer's request, utility employees must present information identifying themselves as employees of the utility in order to establish the right of access.

(2) Utility employees shall be allowed access for the purpose of reading, testing, installing, maintaining and removing meters and using utility cutoff valves. Conditions that may hinder access include, but are not limited to, fences with locked gates, vehicles or objects placed on top of meters or meter boxes, and unrestrained animals.

(3) When access is hindered on an ongoing basis, utilities may, but are not required to, make alternative arrangements for obtaining meter readings as described in paragraphs (4) and (5) of this subsection. Alternative arrangements for obtaining meter readings shall be made in writing with a copy provided to the customer and a copy filed in the utility's records on that customer.

(4) If access to a meter is hindered and the customer agrees to read his own meter and provide readings to the utility, the utility may bill according to the customer's readings; provided the meter is read by the utility at regular intervals (not exceeding six months) and billing adjustments are made for any overcharges or undercharges.

(5) If access to a meter is hindered and the customer does not agree to read their own meter, the utility may bill according to estimated consumption; provided the meter is read by the utility at regular intervals (not exceeding three months) and billing adjustments are made for any overcharges or undercharges.

(6) If access to a meter is hindered and the customer will not arrange for access at regular intervals, the utility may relocate the meter to a more accessible location and may charge the customer for the actual cost of relocating the meter. Before relocating the meter, the utility shall provide the customer with written notice of its intent to do so. The notice required under this subparagraph shall include information on the estimated cost of relocating the meter, an explanation of the condition hindering access and what the customer can do to correct that condition, and information on how to contact the utility. The notice shall give the customer a reasonable length of time to arrange for utility access so the customer may avoid incurring the relocation cost. A copy of the notice given to the customer shall be filed with the utility's records on the customer's account.

(7) If access to a meter, cutoff valve or sewer connection is hindered by the customer and the customer's service is subject to disconnection under §291.88 of this title (relating to Discontinuance of Service), the utility may disconnect service at the main and may charge the customer for the actual cost of disconnection and any subsequent reconnection. The utility shall document the condition preventing access by providing photographic evidence or a sworn affidavit. Before disconnecting service at the main, the utility shall provide the customer with written notice of its intent to do so. The notice required under this subparagraph shall include information on the estimated cost of disconnecting service at the main and reconnecting service and shall give the customer at least 72 hours to correct the condition preventing access and to pay any delinquent charges due the utility before disconnection at the main. The customer may also be required to pay the tariffed reconnect fee for nonpayment in addition to delinquent charges even if service is not physically disconnected. A copy of the notice given to the customer shall be filed with the utility's records on the customer's account.

(d) Meter tests on request of customer.

(1) Upon the request of a customer, each utility shall make, without charge a test of the accuracy of the customer's meter. If the customer asks to observe the test, the test shall be conducted in the customer's presence or in the presence of the customer's authorized representative. The test shall be made during the utility's normal working hours at a time convenient to the customer. Whenever possible, the test shall be made on the customer's premises, but may, at the utility's discretion, be made at the utility's testing facility.

(2) Following the completion of any requested test, the utility shall promptly advise the customer of the date of the test, the result of the test, who made the test and the date the meter was removed if applicable.

(3) If the meter has been tested by the utility or a testing facility at the customer's request, and within a period of two years the customer requests a new test, the utility shall make the test, but if the meter is found to be within the accuracy standards established by the American Water Works Association, the utility may charge the customer a fee which reflects the cost to test the meter, but this charge shall in no event be more than \$25 for a residential customer.

(e) Meter testing.

(1) The accuracy of a water meter shall be tested by comparing the actual amount of water passing through it with the amount indicated on the dial. The test shall be conducted in accordance with the standards for testing cold water meters as prescribed by the American Water Works Association or other procedures approved by the executive director.

(2) The utility shall provide the necessary standard facilities, instruments, and other equipment for testing its meters in compliance with these sections. Any utility may be exempted from this requirement by the commission provided that satisfactory arrangements are made for testing its meters by another utility or testing facility equipped to test meters in compliance with these sections.

(3) Measuring devices for testing meters may consist of a calibrated tank or container for volumetric measurement or a tank mounted upon scales for weight measurement. If a volumetric

standard is used, it shall be accompanied by a certificate of accuracy from any standard laboratory as may be approved by the commission or executive director. The executive director can also authorize the use of a volumetric container for testing meters without a laboratory certification when it is in the best interest of the customer and utility to reduce the cost of testing. If a weight standard is used, the scales shall be tested and calibrated periodically by an approved laboratory and a record maintained of the results of the test.

(4) Standards used for meter testing shall be of a capacity sufficient to insure accurate determination of meter accuracy and shall be subject to the approval of the commission.

(5) A standard meter may be provided and used by a utility for the purpose of testing meters in place. This standard meter shall be tested and calibrated at least once per year unless a longer period is approved by the executive director to insure its accuracy within the limits required by these sections. A record of such tests shall be kept by the utility for at least three years following the tests.

(f) Meter test prior to installation. No meter shall be placed in service unless its accuracy has been established. If any meter shall have been removed from service, it must be properly tested and adjusted before being placed in service again. No meter shall be placed in service if its accuracy falls outside the limits as specified by the American Water Works Association.

(g) Bill adjustment due to meter error. If any meter is found to be outside of the accuracy standards established by the American Water Works Association, proper correction shall be made of previous readings for the period of six months immediately preceding the removal of such meter from service for the test, or from the time the meter was in service since last tested, but not exceeding six months, as the meter shall have been shown to be in error by such test, and adjusted bills shall be rendered. No refund is required from the utility except to the customer last served by the meter prior to the testing. If a meter is found not to register for any period, unless bypassed or tampered with, the utility shall make a charge for units used, but not metered, for a period not to exceed three months, based on amounts used under similar conditions during the period preceding or subsequent thereto, or during corresponding periods in previous years.

(h) Meter tampering. For purposes of these sections, meter tampering, bypass, or diversion shall be defined as tampering with a water or sewer utility company's meter or equipment causing damage or unnecessary expense to the utility, bypassing the same, or other instances of diversion, such as physically disorienting the meter, objects attached to the meter to divert service or to bypass, insertion of objects into the meter, and other electrical and mechanical means of tampering with, bypassing, or diverting utility service. The burden of proof of meter tampering, bypass, or diversion is on the utility. Photographic evidence must be accompanied by a sworn affidavit by the utility when any action regarding meter tampering as provided for in these sections is initiated. A court finding of meter tampering may be used instead of photographic or other evidence, if applicable.

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Effective January 10, 1996

§291.90. Continuity of Service.

(a) Service interruptions.

(1) Every utility or water supply or sewer service corporation shall make all reasonable efforts to prevent interruptions of service. When interruptions occur, the utility shall reestablish service within the shortest possible time.

(2) Each utility shall make reasonable provisions to meet emergencies resulting from failure of service, and each utility shall issue instructions to its employees covering procedures to be followed in the event of emergency in order to prevent or mitigate interruption or impairment of service.

(3) In the event of national emergency or local disaster resulting in disruption of normal service, the utility may, in the public interest, interrupt service to other customers to provide necessary service to civil defense or other emergency service agencies on a temporary basis until normal service to these agencies can be restored.

(b) Record of interruption. Except for momentary interruptions due to automatic equipment operations, each utility shall keep a complete record of all interruptions, both emergency and scheduled. This record shall show the cause for interruptions, date, time, duration, location, approximate number of customers affected, and, in cases of emergency interruptions, the remedy and steps taken to prevent recurrence.

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